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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,566	05/23/2001	Peter Twardowski	2001-7032	9938

7590 05/24/2006
Elias C Borges
10 KINGSBRIDGE GARDEN CIRCLE
SUITE 704
MISSISSAUGA, L5R 3K6
CANADA

EXAMINER

PATEL, JAGDISH

ART UNIT PAPER NUMBER

3624

DATE MAILED: 05/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/856,566	Applicant(s) TWARDOWSKI, PETER	
	Examiner JAGDISH PATEL	Art Unit 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The abstract of the disclosure is objected to because the abstract is not provided on a separate sheet. Correction is required. See MPEP § 608.01(b).

Claim Objections

2. Claim 1 is objected to because of the following informalities: Claim 1 fails to define acronym "CPI" in the claim. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 fails to recite specifically where the weights for necessities and semi-necessities are implemented. The step of implementing therefore is incomplete and indefinite and the scope of the claimed invention cannot be ascertained. The claim also recites "necessities" and "non-necessities" as abstract terms, without providing any quantitative measure of such terms. In other words such terms are provided without any degree of specificity. Therefore, the claim as a whole is rendered indefinite and vague. Like wise the process step of "adjusting for government subsidies" is also vague and indefinite because this process is recited without particularly pointing out how adjusting is carried out or on basis the adjusting is performed.

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Based upon the foregoing discussion of the claim it asserted that the claim is indefinite and fails to particularly point out and distinctly claim the subject matter of the claim.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claim 1 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Under the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility a claimed invention must satisfy the requirement that it be directed to a "practical application" which is to mean "the claimed invention physically transforms an article or physical object to a different state or thing, or ... the claimed invention otherwise produces a useful, concrete, and tangible result".

If a claim satisfies those questions, then the claim describes eligible subject matter. In the instant case the claimed invention does not physically transform an article or a physical object to a different state or thing since the claim is not directed to an article or physical object. Therefore, a relevant test to determine eligibility requirement is whether, the claimed invention as a whole is limited to a useful, concrete, and tangible Result.

The following definitions are used as guidelines in determining whether the claimed invention produces a useful, concrete, and tangible result.

Useful — must be (i) specific, (ii) substantial and (iii) credible and specifically recited in the claim.

Tangible — must be some “real-world result.” (Tangible is the antonym of abstract.)

Concrete — must have a result that “can be substantially repeatable or the process must substantially produce the same result again.”(Concrete is antonym of unrepeatable or unpredictable.)

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The claim recites terms “weights for necessities and non-necessities goods ” and “adjusting for government subsidies” without any specificities (see analysis under 35 USC 112 (second)). As such implementing weights (presumably in calculation of a CPI number) and adjusting (the CPI number) is an abstract concept since it is not related to a real-world act or usefulness and therefore is not tangible. The claim is also fails to recite a concrete result because the CPI number is strongly dependent upon the implementation of the weights for which there is no standard provided and therefore based upon (selection and implementation of) weights one can obtain varying CPI. Finally, the claim is not directed to any useful results because the CPI number is not relied upon for any real world utility.

In summary, the claim as whole fails to produce a concrete, tangible and useful result and is non statutory subject matter and rejected under 35 USC 101.

Any amendment to the claim should be clearly supported by the disclosure. The applicant is requested to specify appropriate portions of the disclosure if the claim is amended.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

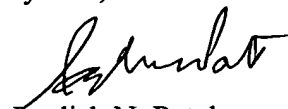
The enclosed references provide general state of the pertinent art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH PATEL whose telephone number is (571) 272-6748. The examiner can normally be reached on 800AM-600PM M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 517-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jagdish N. Patel

(Primary Examiner, AU 3624)

5/22/06